IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS EL PASO DIVISION

THE UNITED STATES OF AMERICA,	§	
ex rel. ANGELA GOMEZ and	§	
CHRISTOPHER HICKS	§	
	§	
Plaintiffs,	§	
,	§	
v.	§	EP-20-CV-0252-KC *SEALED*
••	\$ §	El 20 C V V202 RC SEREED
KOMAN CONSTRUCTION, LLC,	§	FILED UNDER SEAL
	8	AND IN CAMERA
KOMAN ADVANTAGE, LLC,	8	AND IN CAMERA
KOMAN HOLDINGS, LLC,	§	
NATIVES OF KODIAK, INC.,	§	
STORMWATER PLANS, LLC DBA SWP	§	
CONTRACTING & PAVING,	§	
L&J CONTRACTORS, INC.,	§	
BFL CONSTRUCTION CO., INC.,	§	
HARRISON, WALKER and HARPER, LP,	§	
BOXX MODULAR, INC., and	§	
DONLEY CONSTRUCTION, INC.	§	
	§	
Defendants.	§	

NOTICE OF THE UNITED STATES THAT IT IS NOT INTERVENING AT THIS TIME

In its last Order, dated January 2, 2024, the Court ordered that the United States notify the Court of its intervention decision on or before January 10, 2024. The Government's investigation has not been completed and, accordingly, the United States hereby notifies the Court that it is not intervening at this time. However, the Government's investigation will continue.

Although the United States is not intervening at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.* Therefore, the United States requests that, should either the relators or the defendants propose that

this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon it; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the Government requests only that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because, in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended. In accordance with the Court's January 2, 2024, order, the United States will file contemporaneously a motion to maintain the seal with respect to documents filed prior to this notice, setting forth more particularly the reasons for its request.

A proposed order accompanies this notice.

Respectfully submitted,

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/s/ Ashley N. Bailey

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Dated: January 10, 2024 Attorneys for the United States of America

CERTIFICATE OF SERVICE

I certify that, on January 10, 2024, I caused the forgoing document, along with a proposed order, to be served via United States Postal Service, on relators' counsel at the following addresses:

David Berg Berg & Androphy 3704 Travis Street Houston, Texas 77002

Rachel Geman Nimish Desai 250 Hudson Street, 8th Floor New York, NY 10013-1413 Lief Cabraser

Attorneys for Relator

/s/ Ashley N. Bailey
ASHLEY N. BAILEY
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,	\$ \$ \$ \$	
Defendants.	8	
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[PROPOSED] ORDER

The United States having not intervened in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), the Court rules as follows:

IT IS ORDERED that,

- 1. The complaint be unsealed and served upon the defendants by the relators;
- 2. All other contents of the Court's file in this action remain under seal and not be made public or served upon the defendants, except for this Order and the Notice Of The United States That It Is Not Intervening At This Time, which the relators will serve upon the defendants only after service of the complaint;

- 3. The seal be lifted as to all other matters occurring in this action after the date of this Order;
- 4. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;
 - 5. The parties shall serve all notices of appeal upon the United States;
 - 6. All orders of this Court will be sent to the United States; and that
- 7. Should the relators or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

SIGNED AND ENTERED this __ day of ______, 2024 at El Paso, Texas.

THE HONORABLE KATHLEEN CARDONE UNITED STATES DISTRICT JUDGE